

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MILLER INVESTMENT TRUST, and
JURA LIMITED
Plaintiffs,
v.
MORGAN STANLEY & CO.
INCORPORATED, n/k/a/ MORGAN
STANLEY & CO, LLC and KPMG, a Hong
Kong partnership
Defendants.

Civil Action No. 11-CV-12126-DPW

**STIPULATION FOR DISMISSAL WITHOUT PREJUDICE OF CLAIMS AGAINST
MORGAN STANLEY & CO., LLC IN FAVOR OF LITIGATION IN MASSACHUSETTS
SUPERIOR COURT**

Plaintiffs Miller Investment Trust (“Miller”) and Jura Limited (“Jura”, and with Miller, the “Plaintiffs”), and Defendant Morgan Stanley & Company LLC (“Morgan Stanley,” and with Plaintiffs, the “Parties”) hereby stipulate for dismissal of this Action upon the following conditions as follows:

WHEREAS, Plaintiffs’ Third Amended Complaint (“Complaint”) asserted claims against KPMG, a Hong Kong Partnership (“KPMG”) under the federal securities laws;

WHEREAS, Plaintiffs’ Complaint did not assert federal law claims against Morgan Stanley;

WHEREAS, to support subject-matter jurisdiction in this Court, Plaintiffs’ Complaint asserted federal question jurisdiction; and

WHEREAS, the Court has dismissed the claims against KPMG with prejudice, which is pending on appeal. There is no longer any federal question jurisdiction and there does not appear to be a basis for diversity jurisdiction at this time.

NOW THEREFORE, IT IS STIPULATED THAT:

1. Pursuant to Fed. R. Civ. Proc. 41(a)(1)(A)(ii), Plaintiffs will voluntarily dismiss this Action¹ without prejudice against Morgan Stanley in favor of filing a complaint in the Massachusetts Superior Court, Suffolk County (the “State Court Action”) under the following conditions:

- a. Morgan Stanley waives any statute of limitations or statute of repose in the State Court Action;
- b. Morgan Stanley consents to personal jurisdiction in the State of Massachusetts before the Massachusetts Superior Court in the State Court Action
- c. Plaintiffs will not assert new claims or causes of action in the complaint filed in the State Court Action against Morgan Stanley or any affiliated entity, except that Plaintiffs may assert all claims available under Massachusetts State law as to their aftermarket purchases against Morgan Stanley and/or affiliated entities; and
- d. The Parties shall seek acceptance of the State Court Action into the Business Litigation Session (“BLS”).

¹ This dismissal has no impact on the pending appeal relating to the dismissal of Plaintiffs’ claims against KPMG.

Dated: May 29, 2018.

Respectfully submitted,

MILLER INVESTMENT TRUST, and JURA LIMITED,

By their attorneys,

/s/ Laurence Rosen

Laurence Rosen (pro hac vice)

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Dated: May 29, 2018.

Respectfully submitted,

MORGAN STANLEY & CO., LLC,

By its attorneys,

/s/ John P. Bueker

John P. Bueker, BBO# 636435

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CERTIFICATE OF SERVICE

I hereby certify that this document was filed through the ECF system to be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and that paper copies will be sent to any person indicated on ECF as a non-registered participant on May 29, 2018

/s/ Laurence M. Rosen